

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 13 December 2005

CASE NO.: 2005 WIA 3

In the Matter of

MAUI ECONOMIC OPPORTUNITY, INC.
Complainant

v.

U.S. DEPARTMENT OF LABOR
Respondent

Appearances: Mr. Steven D. Cundra, Attorney
For the Complainant

Mr. Stephen R. Jones, Attorney
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

ORDER OF DISMISSAL

This case arises under the provisions of the Workforce Investment Act, 29 U.S.C. § 2801 *et seq.* and 20 C.F.R. Part 667 Subpart H. Pursuant to a Notice of Hearing, dated July 26, 2005, I set a hearing date of November 1, 2005. However, prior to the hearing, I received notice from Complainant's counsel that while the Complainant had not directly received the grant which was the subject of its complaint, the state of Hawaii had contracted with the Complainant to provide the same services. In a subsequent telephone conference call, counsel for the Respondent indicated no opposition to a voluntary dismissal of the complaint. Subsequently, on December 7, 2005, I received the Complainant's notice of withdrawal of its complaint and request for voluntary dismissal on the basis that the contract with the state of Hawaii has rendered the complaint moot.

Background

In April 2005, the Respondent, the U.S. Department of Labor ("DOL"), published a Solicitation for Grant Application ("SGA") under Section 167 of the Workforce Investment Act ("WIA") for applications in the National Farm Workers' Jobs Program. In response to the solicitation, the Complainant, Maui Economic Opportunity ("MEO"), submitted an application for the program in Hawaii.

On July 1, 2005, MEO received oral communication from DOL that it would not received the grant due to a low score. On July 7, 2005, MEO filed a complaint, objecting to the rejection of its application on the basis of a low score and requesting a hearing before the Office of Administrative Law Judges ("OALJ"). On the same day, MEO requested the hearing be expedited. On July 8, 2005, DOL issued a written notification to MEO that its application had been rejected because it had scored less than 80 during the review process; several scoring sheets with identified strengths and weaknesses were attached. On July 12, 2005, MEO filed a "Complainant's Amendment and Supplement to Its Complaint For Administrative Review and Request for Hearing," indicating MEO had received the written rejection notification. Finally, in July 18, correspondence concerning an expedited hearing, DOL noted MEO's failure to file a complaint to the July 8, 2005 written notification.¹

ORDER

Based on the complainant's voluntary withdrawal, dismissal of the complaint is appropriate. Accordingly, the complaint of Maui Economic Opportunity, Inc. is **DISMISSED** with prejudice.

SO ORDERED:

A

RICHARD T. STANSELL-GAMM
Administrative Law Judge

Date Signed: December 8, 2005
Washington, D.C.

NOTICE OF APPEAL RIGHTS: To appeal, you must file exceptions ("Exception") with the Administrative Review Board ("Board") within twenty (20) days of the date of issuance of the administrative law judge's decision. See 20 C.F.R. § 667.830. The Board's address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. Your Exception must specifically identify the procedure, fact, law, or policy to which exception is taken. You waive any exceptions that are not specifically stated. Any request for an extension of time to file the Exception must be filed with the Board, and copies served simultaneously on all other parties, no later than three (3) days before the Exception is due. See 20 C.F.R. § 667.830; Secretary's Order 1-2002, ¶4.c.(42), 67 Fed. Reg. 64272 (2002).

A copy of the Exception must be served on the opposing party. See 20 C.F.R. § 667.830(b). Within forty-five (45) days of the date of an Exception by a party, the opposing party may submit a reply to the Exception with the Board. Any request for an extension of time to file a reply to the Exception must be filed with the Board, and a copy served on the other party, no later than three (3) days before the reply is due. See 20 C.F.R. § 667.830(b).

If no Exception is timely filed, the administrative law judge's decision becomes the Final Decision and Order of the Secretary of Labor pursuant to 20 C.F.R. § 667.830(b) unless the

¹On September 12, 2005, I denied the Respondent's Motion to Dismiss based on the un-timeliness of the complaint.

Board notifies the parties within thirty (30) days of the date of issuance of the administrative law judge's decision that it will review the decision. Even if an Exception is timely filed, the administrative law judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the filing of the Petition notifying the parties that it has accepted the case for review. See 20 C.F.R. § 667.830(b).